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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL, 1998

BEFORE

HON'BLE MR. JUSTICE S.R. VENKATESHA MURTHY

H.R.R.P. NUMBER 290 of 1996

Between:

1. Sri. C.A.Madhava Rao,
since deceased by his Lrs:

(1) C.M.Guru,
s/o C.A.Madhava Rao,
Hindu, Major.

(2) C.M.Krishna Rao,
s/o C.A.Madhava Rao,
Hindu, Major.

(3) C.M.Ananda Rao,
s/o C.A.Madhava Rao,
Hindu, Major.

(4) C.M.Shanthala,
d/o C.A.Madhava Rao,
Hindu, Major.

(5) C.M.Raghavi Bahai,
d/o C.A.Madhava Rao, Hindu,
Major.

All are residing at No.,330,
Sampige Road, Malleswaram,
Opposite to Malleswaram Market,
Bangalore.

PETITIONERS.

(Sri. C.V.Kumar for petitioner)

And:

Sri.V.R.Narayana Rao,
s/o not known to the petitionrs,
Hindu, Major,

112

No.330/6, Sampige Road,
Malleswaram, Bangalore.

RESPONDENT

(Sri.G.S.Mahadevappa for respondent)

This HRRP is filed under section 50(1) of the KRC Act, against the order dated 29-11-1995 passed in HRC No. 1359 of 1993 on the file of the Court of Small Causes, Bangalore, dismissing the petition filed under section 21 (1)(h) of the KRC Act.


This Revision coming on for hearing this day, the Court made the following:

ORDER

This is landlord's revision challenging the dismissal of HRC 1359 of 1993 on the file of the Court of Small Causes, Bangalore.

2. The parties are referred to according to their array in the trial court.


3. Landlord -Madhava Rao sought eviction of the respondent, a tailor from the schedule premises on the ground that the premises adjacent to the schedule premises is in the occupation of his son Anand who is carrying on business in stationery articles and he requires the schedule premises by way of additional accommodation to expand his business for greater earnings.



4. The respondent resisted the claim alleging that the petitioner has a number of premises adjoining the schedule premises wherein he could carry on business and that the need sought to be put forward is false; that no business is carried on in the premises adjoining the schedule premises; that previously also, petitions have been filed seeking eviction and have failed; that the respondent would be put to greater hardship by being evicted from the premises and that therefore, the petition be dismissed.

5. The trial court recorded the evidence of P.W.1. Anantharao as also the evidence of the respondent-tenant and came to the conclusion that the petitioner's claim for eviction had not been substantiated and dismissed the same.

6. In this Revision, the contention of the petitioner is that the trial Judge ought to have accepted the evidence of P.W1 regarding the need of the petitioner and directed eviction. Though P.W.1 gave evidence of his



running a business, there was no material to support the claim. The trial Judge found that the petitioner's evidence of running any business in the shop adjoining the schedule premises was unsubstantiated muchless was there any evidence of the petitioner's business was of such a magnitude as to call for additional space for his business. The trial Judge ~~observed~~ held that the case of the petitioner was not established for additional accommodation. In the circumstances, the finding recorded by the trial Judge, about the petitioner's claim being not substantiated is not open to challenge in this Revision. The Revision has to fail and is dismissed.

Sd/-
JUDGE

PV.